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**Received - 2021-10-28 01:27:30 PM**  
**Control Number - 51415**  
**ItemNumber - 683**

**SOAH DOCKET NO. 473-21-0538  
PUC DOCKET NO. 51415**

**APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE  
ELECTRIC POWER COMPANY FOR § OF  
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS**

**EASTMAN CHEMICAL COMPANY'S REPLY TO EXCEPTIONS  
OF SOUTHWESTERN ELECTRIC POWER COMPANY  
TO THE PROPOSAL FOR DECISION**

**October 28, 2021**

**Respectfully submitted,**

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### **List of Acronyms and Defined Terms**

<b>Term</b>	<b>Definition</b>
AEP	American Electric & Power
BTMG	Behind-the-Meter Generation
Commission	Public Utility Commission of Texas
Eastman	Eastman Chemical Company
FERC	Federal Energy Regulatory Commission
kW	Kilowatt
LLP-T	Large Lighting and Power-Transmission
MW	Megawatt
NITS	Network Integration Transmission Services
OATT	Open Access Transmission Tariff
PURA	Public Utility Regulatory Act
PURPA	Public Utility Regulatory Policy Act
SBMA	Supplementary, Backup, Maintenance and As Available Standby Power Service
SPP	Southwest Power Pool
SSGL	Synchronized Self-Generation
SWEPCO	Southwestern Electric Power
TIEC	Texas Industrial Energy Consumers

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**TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:**

COMES NOW Eastman Chemical Company (“Eastman”) and files this Reply to the Exceptions to the Proposal for Decision (“PFD”) filed by Southwestern Electric Power Company (“SWEPCO”).

**I. INTRODUCTION AND SUMMARY**

The PFD gets it right—Eastman’s retail behind-the-meter generation (“BTMG”) should not be included in SWEPCO’s jurisdictional allocation or in the class allocation of transmission costs ultimately approved to set base rates.<sup>1</sup> SWEPCO chose to artificially impute Eastman’s self-generated generation, which is not provided by SWEPCO, and thus, the load is best characterized as a “phantom” load. The PFD saw through the fiction of the phantom load and, based on credible evidence, the PFD found:

- SWEPCO’s inclusion of a phantom load based only on one customer (Eastman) in one state (Texas), while failing to include or account for 187 other retail BTMG customers in Texas and at least three retail BTMG customers in Arkansas and Louisiana, is unreasonable and results in discriminatory rates.<sup>2</sup>

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<sup>1</sup> Proposal for Decision (August 27, 2021) at 195 and 271 (“PFD”).

<sup>2</sup> PFD at 195, 271, 279-80; proposed Finding of Fact Nos. 220-226.

- SWEPCO’s proposals to allocate transmission costs at both the jurisdictional and class levels by adding Eastman’s BTMG load are not reasonable, necessary, nor non-discriminatory.<sup>3</sup>

The PFD’s analysis of this discrete, yet significant, issue is an accurate application of the law to the facts that this Commission has the right and the duty to apply—the costs to be used to set base rates must be reasonable, necessary, and non-discriminatory.<sup>4</sup> SWEPCO did not meet its burden because it could not—as demonstrated by the credible facts and proper application of the legal standards established in the Public Utility Regulatory Act (“PURA”),<sup>5</sup> which this Commission must apply when setting base rates for Texas retail ratepayers.

SWEPCO’s Exceptions on this issue are a rehash of its arguments to the Administrative Law Judges (“ALJs”) and do not raise any new arguments or record evidence that was found to be credible. In its Exceptions, SWEPCO does not address these critical findings or the proper application of the standards this Commission must apply when setting base rates.

Instead, the only defense SWEPCO raised in its Exceptions to the PFD’s well-reasoned analysis, findings, and conclusions is based on its characterization of “cost causation.”<sup>6</sup> SWEPCO previously raised this same argument, but it was soundly rejected in the PFD. However, even if “cost causation” were the only standard (which it is not), an even-handed cost causation analysis would result in the same findings and conclusions in the PFD. Why? Because the phantom load of Eastman’s BTMG is an artificially created load measured on

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<sup>3</sup> PFD at 196, 271, 280; proposed Finding of Fact Nos. 222-226, 239-242, 292. Notably, the PFD recognized the phantom nature of SWEPCO’s use of Eastman’s BTMG load when it found: “[t]he jurisdictional allocation of transmission costs to Texas retail customers should be established by using the actual load served by SWEPCO in each of its jurisdictions.” See proposed Finding of Fact No. 241.

<sup>4</sup> TEX. UTIL. CODE § 36.001.

<sup>5</sup> TEX. UTIL. CODE §§ 1.001, *et seq.* (2019)(“PURA”).

<sup>6</sup> Southwestern Electric Power Company’s Exceptions to the Proposal for Decision, Oct. 7, 2021, at 3, 43 (“SWEPCO Exceptions”). It should be noted that SWEPCO’s defense of its decision to change its long-standing Monthly Network Reporting to SPP has shifted and been repackaged throughout the case. SWEPCO’s Exceptions and single “cost causation” defense is the latest of many attempts to justify decisions it made, irrespective of Texas’s statutory mandates that place the burden of proof on SWEPCO to establish that its costs were reasonable, necessary, and non-discriminatory. PURA, § 36.001.

Eastman's side of the retail meter and does not represent load that drives transmission costs.<sup>7</sup> The \$5.7 million of allocated "costs" are created through adding a fictional load of only one customer (Eastman) from only one state (Texas) to SWEPCO's jurisdictional allocation study. Yet, the record is undisputed that SWEPCO has 187 retail BTMG customers in Texas, including Eastman, and three of those customers have cogeneration facilities.<sup>8</sup> SWEPCO has retail BTMG customers in Arkansas and Louisiana.<sup>9</sup> SWEPCO's decision to unreasonably and discriminatorily include a phantom load of Eastman's BTMG alone was the cause of the mis-allocation of the transmission costs in this case and that decision does not meet the statutory mandates of PURA for setting base rates in Texas.

In contrast, the PFD properly applies cost-causation principles in its recommendation. The principles favor the well-reasoned analysis, findings, and conclusions in the PFD because the "load" that SWEPCO reports to Southwest Power Pool ("SPP") is nothing more than a phantom load, an illusory artificial load that neither SWEPCO nor SPP provide. Rather, SWEPCO quantifies this phantom load using a snapshot of Eastman's own retail BTMG on a single day of a month at a specific point in time. By SWEPCO's own admission, it does not reflect actual test year costs.<sup>10</sup> Accordingly, the Commission should reject SWEPCO's Exceptions and adopt the PFD and related proposed Findings of Fact and Conclusions of Law.<sup>11</sup>

The impact of this dispute is significant to Eastman and to other Texas ratepayers. Eastman currently pays SWEPCO approximately \$3.6 million annually for maintenance and stand-by service.<sup>12</sup> Under SWEPCO's proposal, Eastman would pay an *additional* \$3.96 million annually in a new rate applicable only to Eastman, which represents a 110% increase in costs

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<sup>7</sup> Eastman Ex. 1 (Al-Jabir Direct) at 22-23. As Eastman witness Ali Al-Jabir explained, the majority of transmission costs are driven by system peak demand and not by the individual customer's demand. Individual customer peak demands are only relevant as cost drivers for more localized, lower-voltage-level facilities. *Id.*

<sup>8</sup> PFD at 168-69, *citing* Eastman Ex. 1 (Al-Jabir Direct) at 4, TIEC Ex. 77; IEC Ex. 78; Tr. 1504-05; proposed Finding of Fact No. 204.

<sup>9</sup> *Id.*; proposed Finding of Fact No. 221.

<sup>10</sup> Tr. 1188 (Ross); PFD at proposed Finding of Fact No. 241.

<sup>11</sup> The PFD's analysis of the retail BTMG dispute can be found at 167-97, 270-71, 279-80, 311; proposed Finding of Fact Nos. 192-226, 239-243, 255, and 292; and proposed Conclusion of Law No. 37.

<sup>12</sup> Eastman Ex. 1 (Al-Jabir Direct) at 5. There is no dispute about the Maintenance and Standby Services or rates that Eastman purchases from SWEPCO. *See* PFD at 168-69.

paid to SWEPCO.<sup>13</sup> And for what? Nothing—Eastman’s use of SWEPCO’s transmission system remains the same and Eastman’s purchase of Maintenance and Standby Service remains the same. Likewise, other Texas ratepayers would bear the remaining allocated transmission costs even though those ratepayers are not receiving any additional or changed service as a result of SWEPCO’s unreasonable and discriminatory inclusion of an artificial, phantom load for Eastman.

SWEPCO’s Exceptions do not address the PFD’s rejection of SWEPCO’s inclusion of a phantom load of Eastman’s BTMG in its class-allocation study that resulted in even larger allocation of costs to the Large Lighting and Power-Transmission (“LLP-T”) class. As the PFD found, SWEPCO’s inclusion of a phantom load of Eastman’s retail BTMG resulted not only in an increase in transmission costs allocated to Texas of \$5.7 million, but also increased allocation of transmission costs to the LLP-T class by \$7.5 million, with corresponding reductions to the remainder of SWEPCO’s classes.<sup>14</sup> The PFD’s rejection of SWEPCO’s proposed changes—to include phantom BTMG load in its class allocation—is well-reasoned and sound.

Finally, in its Exceptions, SWEPCO did not address the PFD’s rejection of SWEPCO’s proposed new rate—the Synchronous Self-Generated (“SSGL”) rate—intended to recoup a significant portion (\$3.96 million annually) of the artificially inflated transmission costs from a single customer—Eastman. Because SWEPCO did not file exceptions to the PFD’s analysis and findings rejecting the SSGL rate, the Commission should adopt that portion of the PFD and its related findings.<sup>15</sup>

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<sup>13</sup> PFD at 169. SWEPCO’s proposed Synchronized self-generation (“SSGL”) rate initially applied only to Eastman because, by its definition, the rate is applied to only the retail BTMG customers for which SWEPCO included phantom loads in its Network Monthly report to SPP. *See* SWEPCO Ex. 1, Sch. Q-8.8 at 103; Tr. 1263-1264 (May 25, 2021). In its rebuttal, SWEPCO attempted to expand the applicability of the SSGL rate to other retail BTMG customers, but could not provide any other customer that would be required to pay the SSGL rate except for Eastman. Tr. 1504-1505 and 1511-1512 (Jackson).

<sup>14</sup> PFD at 279-280; proposed Finding of Fact Nos. 224-226, 255.

<sup>15</sup> PFD at 311; proposed Finding of Fact No. 369.



## **VII. EXPENSES**

### **A. Transmission O&M Expenses**

#### **6. Allocated Transmission Expenses Related to Retail Behind-the-Meter Generation<sup>16</sup>**

#### **THE PFD SHOULD BE ADOPTED WITH RESPECT TO ITS REJECTION OF SWEPCO'S JURISDICTIONAL ALLOCATION OF TRANSMISSION COSTS ASSOCIATED WITH RETAIL BTMG.<sup>17</sup>**

**A. The PFD correctly finds that SWEPCO did not meet its burden of proof that the cost allocation and resulting transmission costs included in its proposed revenue requirement were reasonable, necessary, and non-discriminatory.**

##### **1. Factual Background**

The PFD is based upon two key facts: (1) Eastman's retail BTMG and its relationship as a retail customer of SWEPCO, and (2) SWEPCO's change in its long-standing methodology to report monthly Network Load to SPP. The PFD accurately represents both, and they underscore the PFD's accurate analysis of this issue.

Eastman generates its own electricity (~150 MW) through its on-site cogeneration facilities to supply the full load requirements of its operations.<sup>18</sup> As a SWEPCO retail customer, Eastman purchases maintenance and standby backup power through a negotiated contract demand level and price under SWEPCO's Supplementary, Backup, Maintenance and As-Available Power Service Tariff ("SMBA Tariff").<sup>19</sup> Under this tariff, Eastman pays a monthly demand charge for the standby service and a daily demand charge when it takes the standby power for scheduled or emergency outage situations.<sup>20</sup> Eastman's standby and maintenance power purchase from SWEPCO to service part or all of Eastman's load has been historically low in relation to its own load, even during winter or other storm events. Over the past decade, Eastman has taken maintenance power for scheduled outages only 10 days per year, on average.

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<sup>16</sup> The issues addressed under this section of the PFD also address IX. A. 1. h. SWEPCO's Jurisdictional Allocation of Eastman BTMG.

<sup>17</sup> PFD at 167-96; proposed Finding of Fact Nos. 192-226, 239-243, 255 and 292, and proposed Conclusion of Law Nos. 34-37.

<sup>18</sup> PFD at 168. *See also* Eastman Ex. 1 (Al-Jabir Direct) at 4, 11. Eastman purchased the cogeneration facility from AEP in 2008 and has been a customer of SWEPCO since that time. Tr. 1120 (Ross).

<sup>19</sup> PFD at 165; Eastman Ex. 1 (Al-Jabir Direct) at 4, 12.

<sup>20</sup> *Id.*; Eastman Ex. 1 (Al-Jabir Direct) at 4.

Unplanned outages requiring backup services are very limited and occur three days per year, on average.<sup>21</sup> As a result, Eastman pays SWEPCO approximately \$3.6 million annually for the standby service.<sup>22</sup> In the event that Eastman is taking the standby power at the time that SWEPCO reports its Monthly Network Load to SPP, that load is included in SWEPCO's report to SPP as it represents actual load being provided by SWEPCO and traversing SPP's transmission system.<sup>23</sup>

Historically, SWEPCO did not include Eastman's or any retail BTMG when reporting its load-ratio share reports to SPP.<sup>24</sup> In October 2018, SWEPCO changed its long-standing practice and started using a "gross load" approach for its Monthly Network Load report, which in theory would add a retail customer's load being served by the customer's own generation behind the meter when the monthly zonal peak demand is measured. But in practice, SWEPCO implemented this change using an artificial measurement of a phantom load of a single retail customer (Eastman) during the Zonal Peak hour each month. The impact of this decision was that SWEPCO artificially increased its monthly Network Load (actual metered retail load) by including a phantom load of Eastman's BTMG that is not served or provided by either SWEPCO or SPP.<sup>25</sup>

Both of these facts are critical to understanding why the PFD is correct. Based on these undisputed facts, the phantom load of Eastman BTMG is a fiction because it does not represent Eastman's actual load served by SWEPCO nor does it contribute to SWEPCO's system's actual demand.<sup>26</sup> SWEPCO admitted this to be true at the hearing<sup>27</sup> and in its advocacy to SPP

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<sup>21</sup> Eastman Ex. 2 at Exhibit AZA-6.

<sup>22</sup> PFD at 169; Eastman Ex. 1 (Al-Jabir Direct) at 4.

<sup>23</sup> PFD at fn. 855.

<sup>24</sup> PFD at 168. *See also* Eastman Ex. 1 (Al-Jabir) at 5. This approach is referred to as the "net" reporting, and retail BTMG load was excluded from reporting to SPP.

<sup>25</sup> PFD at 168. *See also* Eastman Ex. 1 (Al-Jabir) at 7-8.

<sup>26</sup> *See* proposed Finding of Fact No. 241, which finds that jurisdictional allocation of transmission costs to Texas retail customers should be established by using the *actual load* served by SWEPCO in each of its jurisdictions. (emphasis added)

<sup>27</sup> Tr. 1144-45 (Ross)("The BTMG load is still there, but it's not being served by SWEPCO. The energy is not transmitted from [SWEPCO's] resources to that customer.")

opposing use of gross load reporting of retail BTMG load.<sup>28</sup> The record is undisputed that Eastman's self-generation serving its retail BTMG load is typically available except for scheduled maintenance outages that are coordinated during the shoulder months of the spring and fall, when system loads are low.<sup>29</sup> The only time when the load served by Eastman's retail BTMG could impose a demand on the SWEPCO system at the time of the measurement of the monthly zonal peak would be in the rare instances when a forced outage of Eastman's retail BTMG coincides with the time of zonal peak.<sup>30</sup> SWEPCO offered no evidence on this point. Therefore, SWEPCO's use of the gross load approach to include Eastman's retail BTMG measured at a single point in time each month for self-generated electricity created an artificial phantom load that does not appear on the SWEPCO transmission system at coincident peak, and thus SWEPCO cannot impose the costs it seeks to recover.<sup>31</sup>

These facts serve as the basis for the PFD's review and analysis of SWEPCO's inclusion of Eastman's phantom load in its jurisdictional cost allocation of transmission costs.

**2. The PFD correctly concluded that federal jurisdictional issues and application of the filed-rate doctrine do not preclude the Commission from reviewing SWEPCO's jurisdictional allocation of an additional \$5.7 million to Texas.**

There are two jurisdictional aspects related to the retail BTMG issue addressed in this case – federal and state. The federal jurisdictional issues include whether the Network Integration Transmission Services (“NITS”) costs allocated by SPP to SWEPCO were appropriate under SPP's OATT, and whether the filed-rate doctrine, which preempts the PUC's ability to review certain costs, applies. The PFD provides fair and sufficiently detailed explanations of the parties' respective positions to these issues.<sup>32</sup> The state jurisdictional issue, and the one where the PFD ultimately rests its analysis, findings, and conclusions, is whether

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<sup>28</sup> SWEPCO opposed a gross load approach in comments first made to SPP prior to October 2018 and again in 2019 after it implemented the gross load approach. TIEC Ex. 36C (“... But customers are not deemed to have their entire potential load counted as Network Load at all times. . . . Further, it is well established that Network Customers that have retail interruptible customers that are not on the system at the time of the peak do not have to add the interrupted load to their actual loads.”) See Eastman Initial Brief at 10-11 for entirety of quote.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> SWEPCO admits this statement as well. TIEC Exs. 36B and 36C.

<sup>32</sup> PFD at 170-83.

SWEPCO's inclusion of a phantom load of Eastman's BTMG in both its jurisdictional and class allocation cost studies in this case was reasonable, necessary, and non-discriminatory. The PFD gets both jurisdictional aspects right. SWEPCO's Exceptions do not raise any new issues or law that were not painstakingly reviewed in the PFD.

**a. Federal jurisdiction and the Filed Rate-Doctrine—neither are dispositive in this case.**

The PFD addresses SWEPCO's claims that the disputes raised by Eastman and TIEC should be addressed by FERC and that SWEPCO's transmission costs are reasonable as a matter of law under the filed-rate doctrine.<sup>33</sup> Eastman did not file exceptions to the PFD's analysis related to federal jurisdiction because the PFD analysis and related findings correctly conclude the Commission is statutorily required to review SWEPCO's jurisdictional allocated costs and the inclusion of those costs in a proposed revenue requirement under PURA.<sup>34</sup>

SWEPCO's Exceptions do not raise any new arguments or facts that were not already thoroughly and thoughtfully considered in the PFD. Before the ALJs, SWEPCO claimed that disputes related to the OATT and federal precedent should be addressed at the FERC.<sup>35</sup> The PFD agrees with SWEPCO that issues related to interpretation of SPP's OATT and/or PURPA are more appropriate to raise at FERC.<sup>36</sup> Assuming the ALJs' conclusion is correct, Eastman does agree with the PFD's conclusion that a FERC remedy for that purpose does not discharge the responsibility of this Commission under PURA to set just and reasonable rates. SWEPCO attempts to confuse the proper application of PURA's ratemaking standards by constructing a strawman remedy that a customer like Eastman might have before a different regulator—even though that regulator, of course, has no retail ratemaking authority.

In this Reply, Eastman will address two aspects of SWEPCO's Exceptions to underscore the detailed and correct ultimate conclusion in the PFD: (1) SWEPCO's assertion that Eastman has redress before the FERC on issues related to interpretation of SPP's OATT, and

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<sup>33</sup> PFD at 192-94.

<sup>34</sup> See PFD at 170-71.

<sup>35</sup> PFD at 170-71.

<sup>36</sup> PFD at 192-94.

(2) SWEPCO's argument that the filed-rate doctrine prevents the Commission from reviewing the reasonableness of SWEPCO's jurisdictional cost allocation and resulting costs.

### A Potential FERC Remedy

SWEPCO's suggestion that Eastman has redress at the FERC<sup>37</sup> continues to be misplaced and irrelevant. Eastman does not dispute that the FERC has jurisdiction over the SPP OATT<sup>38</sup>; such an admission does not move the needle in terms of addressing the dispute before the Commission. But the PFD did not use such a determination as a basis for its decision. Likewise the Commission should determine that SWEPCO's suggestion is not dispositive to this issue for three reasons. First, whether Eastman has standing to file a complaint against SPP or SPP's interpretation of its OATT is questionable.<sup>39</sup> Eastman is not a "Network Customer" as defined in the OATT and therefore, arguably would not have standing to file a complaint against SPP for its interpretation of the OATT.<sup>40</sup> Second, even if Eastman could file a complaint, which Eastman does not concede, that right does not matter in this case. In this case, the Commission is the sole authority to determine if SWEPCO's decision to revise its jurisdictional allocation cost study and its class allocation study by adding a phantom load of BTMG of only one customer (Eastman) in one jurisdiction (Texas). Eastman's right to file a complaint at FERC does not impact the state regulatory regime analysis. Third, even if Eastman had standing to file a complaint and if it would matter to the issues to be decided by the Commission in this case, neither of which Eastman concedes, the FERC could not reach a decision in a timely manner so as to prevent SWEPCO from (i) including \$5.7 million in increased allocated transmission costs in Texas that would be part of SWEPCO's revenue requirement, (ii) allocating approximately \$7.7 million of additional costs to be recovered from the LLP-T class, and (iii) implementing a new rate effectively applicable only to Eastman to recover approximately \$3.96 million annually. Eastman submits that such results are unreasonable, unnecessary, and discriminatory.

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<sup>37</sup> SWEPCO Exceptions at 45.

<sup>38</sup> Given the result of the PFD, it is unnecessary to reach the question of whether that jurisdiction is exclusive.

<sup>39</sup> See SWEPCO Initial Brief at 73-74; Eastman's Reply Brief at 11-12; Tr. 645 (Pollock). The PFD did not make an affirmative finding or conclusion related to this issue although SWEPCO and Eastman took opposite positions.

<sup>40</sup> The federal laws and rules cited by SWEPCO may give a complainant a right to file a complaint, but it is not clear whether SPP's and/or SWEPCO's willingness to accept SPP's interpretation of SPP's OATT Tariff are grounds for Eastman to file a complaint at FERC.

### Filed-Rate Doctrine

SWEPCO continues to assert the filed-rate doctrine in such a broad manner that would prevent the Commission from exercising its statutorily mandated authority under PURA in setting Texas retail rates.<sup>41</sup> The Commission should reject SWEPCO's position.

SWEPCO itself clearly does not believe that the filed-rate doctrine provides relevant, material support for its rate filing, much less foundational support. Eastman notes that SWEPCO did not raise the filed-rate doctrine in support of its proposed jurisdictional cost allocation in its initial rate filing package or even in its direct testimony. It was not until Eastman and TIEC filed direct testimonies—addressing what they perceived were the bases that SWEPCO might claim to support inclusion of approximately \$5.7 million in allocated transmission costs—that SWEPCO thought to raise the filed-rate doctrine in its “rebuttal” testimony for the first time.<sup>42</sup> One would think that if that doctrine was as dispositive as SWEPCO claimed to the ALJs and now to the Commission, SWEPCO would have raised the doctrine from the beginning of the case.

The PFD's treatment of the filed-rate doctrine is reasonable because the doctrine is used to create the bright line that defines how this Commission should resolve this dispute in the context of establishing retail rates in Texas. The PFD found that the NITS charges that were billed by SPP and paid by SWEPCO during the test year were sufficient to demonstrate

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<sup>41</sup> SWEPCO Exception at 42.

<sup>42</sup> Of note, the evolution of how the retail BTMG dispute arose provides context of how the federal and state jurisdictional arguments were raised—because they were not raised coherently in SWEPCO's initial direct case. In its direct case, SWEPCO provided little, if any, explanation of its inclusion of allocated jurisdictional transmission costs or its new proposed rate (applicable only to Eastman) to recover such costs—a mere 21 lines of direct testimony between two witnesses (Aaron—cost allocation; Jackson—proposed rate). Eastman filed direct testimony based on its understanding of SWEPCO's position of inclusion of \$5.7 million in allocated transmission costs. *See* Eastman Ex. 1 (Al-Jabir Direct). TIEC filed its testimony as well. *See* TIEC Ex. (Pollock Direct). SWEPCO then filed its rebuttal testimony on the retail BTMG issue with 40 pages of “rebuttal” testimony, 83 pages of exhibits (excluding the documents relied upon using hyperlinks) through four witnesses—two of which were new witnesses. Eastman filed a Motion to Strike most, but not all, of the “rebuttal” testimonies on this issue on the basis that most of the content should have been included in SWEPCO's direct case. The ALJs allowed any party to file “supplemental” testimony responding to SWEPCO's “rebuttal” testimony on this issue. Eastman and TIEC filed supplemental testimonies. Eastman Ex. 2 (Al-Jabir Supp.); TIEC Ex. 2 (Pollock Supp.) The ALJs denied Eastman's motion given the ability to file supplemental direct. All of these written testimonies and exhibits, SWEPCO's responses to written discovery, and substantial cross-examination form the record evidence. In other words, the federal and state jurisdictional issues evolved as SWEPCO identified bases to support inclusion of at least \$5.7 million in allocated transmission costs related to the Eastman reported retail BTMG load. The PFD systematically separates the jurisdictional issues so that its recommendations focus solely on the issues squarely within the Commission's jurisdiction.

reasonableness as a matter of law under the filed-rate doctrine.<sup>43</sup> While Eastman may not agree that the filed-rate doctrine applies, Eastman can agree with the PFD that the doctrine does not end the analysis or review of the manner in which SWEPCO included a phantom load of Eastman's BTMG in its jurisdictional cost allocation study used to allocate transmission costs to Texas resulting in an additional \$5.7 million attributed to Texas. The PFD correctly concludes that the Commission is not pre-empted from determining if SWEPCO's change to its jurisdictional allocation cost study that added a phantom BTMG load for Eastman (146 MW) was reasonable, necessary, and non-discriminatory.<sup>44</sup> And, the reason for creating the bright line and the support for that bright line is clear: the \$5.7 million of increased allocated transmission costs is not the increase in the NITS charges that SWEPCO incurred during the test year; it results from a change in how SWEPCO proposes to allocate its transmission costs jurisdictionally among Texas, Arkansas, and Louisiana by specifically increasing Texas's load by 146 MW via a phantom load of Eastman's BTMG.<sup>45</sup> The bottom line is that the PFD correctly declines to stretch the filed-rate doctrine in such a manner so as to preclude the Commission from exercising its statutory duty under PURA.

**b. The PFD correctly applies the PURA standards in finding that SWEPCO's inclusion of a phantom load of Eastman's BTMG, which resulted in an additional \$5.7 million in transmission costs allocated to Texas, was unreasonable and discriminatory.**

SWEPCO did not file Exceptions to the PFD's analysis applying the PURA standards to SWEPCO's proposed jurisdictional cost allocation study to allocate costs between Texas, Louisiana, and Arkansas. Nowhere in its Exceptions does SWEPCO contend that the PFD misstates or misapplies PURA's statutory mandates under Sections 36.001 or 36.003. To that end, then, SWEPCO's Exceptions should not be read to address the PFD when it found:

- The reasonableness of a utility's jurisdictional allocation is a matter within the Commission's jurisdiction to determine in setting the utility retail rates, even when it impacts the allocation of costs charged pursuant to a FERC-approved tariff.<sup>46</sup>

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<sup>43</sup> PFD at 194.

<sup>44</sup> *Id.* at 195.

<sup>45</sup> PFD at 195-96; proposed Finding of Fact Nos. 222-26.

<sup>46</sup> PFD at 195; proposed Conclusion of Law No. 37.

- SWEPCO provided little support for changing its jurisdictional allocation. It did not explain why adjusting its jurisdictional allocation to include Eastman’s retail BTMG load was the appropriate way to address the increase in SPP costs related to reporting Eastman’s BTMG load to SPP.<sup>47</sup>
- SWEPCO did not explain why its change in how it reports retail BTMG load to SPP would impact the allocation of its non-SPP transmission costs.<sup>48</sup>
- SWEPCO’s decision to revise its jurisdictional allocation to add the retail BTMG load of one customer (Eastman) in one jurisdiction (Texas) is unreasonable and results in unreasonably discriminatory rates for Texas customers.<sup>49</sup>
- SWEPCO has retail customers with BTMG in Texas, Louisiana, and Arkansas, but SWEPCO failed to explain or to justify the inconsistent treatment wherein SWEPCO only included an imputed load of Eastman BTMG and no other retail BTMG loads from any other retail BTMG customer in any of the three states. The PFD specifically rejected the notion that such a distinction is based on SPP requiring SWEPCO to report retail BTMG because SPP expected SWEPCO to report all retail BTMG load.<sup>50</sup>
- And, as a result, the PFD concludes that SWEPCO “failed to demonstrate that its proposed jurisdictional allocation was reasonable, necessary, and non-discriminatory.”<sup>51</sup> Ultimately, the PFD recommends that the 146 MW of Eastman’s BTMG load that SWEPCO added to the Texas jurisdiction for allocation purposes be removed.

All of these findings in the PFD are based on the credible evidence in the record as cited in the PFD and sound application of PURA.

**B. The PFD’s recommended removal of Eastman’s phantom load for Texas’s jurisdictional allocation purposes is supported by the credible evidence in the record.**

Rather than directly addressing the PFD’s analysis regarding SWEPCO’s failure to meet its burden of proof under PURA as shown above, SWEPCO repackages the already-rejected position that its inclusion of a phantom load of Eastman’s BTMG for Texas in its jurisdictional

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<sup>47</sup> PFD at 195; proposed Finding of Fact Nos. 214, 219, 223, 225, 239-42.

<sup>48</sup> PFD at 195; proposed Finding of Fact No. 214.

<sup>49</sup> PFD at 195-96; proposed Finding of Fact No. 223.

<sup>50</sup> PFD at 195-96; *citing* Tr. at 817-18.

<sup>51</sup> PFD at 196.



allocation study is consistent with principles of “cost causation.”<sup>52</sup> The Commission should not be swayed by this thinly veiled, repackaged position as the PFD considered and properly rejected SWEPCO’s ill-founded cost causation assertions and seems to have largely rejected SWEPCO’s rebuttal testimony which is the sole evidence that SWEPCO cites in its Exceptions in support of its latest claim.

**1. The facts do not support SWEPCO’s repackaged contention that its inconsistent treatment of singling out Eastman’s load was justified.**

In its Exceptions—as it did at the hearing on the merits—SWEPCO claimed that it was justified in singling out and including a phantom load based on Eastman’s BTMG in its jurisdictional cost allocation in this case because: Eastman’s imputed load has a significant impact on SPP’s real time day-to-day operations; Eastman’s load is synchronized with SWEPCO’s systems and other retail BTMG loads are not; and SWEPCO will continue to update its data reporting procedures that may (or may not) enable the reporting of other BTMG loads of other retail customers.<sup>53</sup> Unfortunately for SWEPCO, those assertions fly in the face of the record evidence—largely uncontested—supporting the following Findings of Fact:

- SWEPCO has retail customers with BTMG in all three of its jurisdictions.<sup>54</sup>
- SWEPCO has 187 retail BTMG customers in Texas, including Eastman, with at least three having cogeneration facilities (including Eastman); the rest are commercial or residential solar facilities.<sup>55</sup>
- SWEPCO has retail BTMG customers in Arkansas and Louisiana, including at least one industrial BTMG customer (a paper mill) in Arkansas, and solar retail BTMG customers in both Arkansas and Louisiana.<sup>56</sup>
- SWEPCO did not identify the increase in NITS charges attributable to reporting Eastman’s BTMG load.<sup>57</sup>

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<sup>52</sup> SWEPCO Exceptions at 42-43.

<sup>53</sup> SWEPCO Exceptions at 44.

<sup>54</sup> PFD at 185, 195; proposed Finding of Fact No. 221.

<sup>55</sup> PFD at 185; proposed Finding of Fact No. 220.

<sup>56</sup> *Id.*

<sup>57</sup> PFD at 195; proposed Finding of Fact No. 214.

- SWEPCO proposed to change how it allocates its transmission costs in this case by imputing Eastman's BTMG load to the Texas jurisdiction for jurisdictional allocation and to the LLP-T class for class allocation.<sup>58</sup>
- Adding Eastman's BTMG load to the Texas jurisdiction would increase Texas' share of SWEPCO's transmission costs by \$5.7 million, with corresponding reductions to the Arkansas and Louisiana jurisdictions.<sup>59</sup>

Based on those findings supported by the credible evidence in the record, the PFD concluded:

- SWEPCO included only Eastman's retail BTMG in its jurisdiction cost allocation study by imputing Eastman's self-provided BTMG load to support SWEPCO's increased costs of \$5.7 million in its proposed revenue requirement.<sup>60</sup>
- As a result, adding retail BTMG load solely to Texas likely results in the Texas jurisdiction receiving a higher allocation of SWEPCO's transmission costs than if the Company had treated each jurisdiction consistently.<sup>61</sup>

The PFD explicitly rejects each of SWEPCO's claims listed in its Exceptions:

- SWEPCO's claim: SWEPCO started with Eastman because of the size of Eastman's facilities and its impact on SPP's day to day planning.<sup>62</sup>  
PFD's treatment of the claim: **Rejected**. The ALJs were not persuaded by the distinctions SWEPCO identified for reporting only Eastman's BTMG load. While Eastman currently may have the largest BTMG load of SWEPCO's retail customers, it is not the only customer with a sizable BTMG load.<sup>63</sup>
- SWEPCO's claim: Because of the size of Eastman's retail BTMG load, it has an impact on SPP's daily operations.<sup>64</sup>  
PFD's treatment of the claim: **Rejected**. SWEPCO failed to show that Eastman's load imposes a greater cost on SWEPCO's transmission system, particularly

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<sup>58</sup> PFD at 195-96; proposed Finding of Fact No. 215.

<sup>59</sup> PFD at 195; proposed Finding of Fact No. 216.

<sup>60</sup> PFD at 195; proposed Finding of Fact Nos. 216-19.

<sup>61</sup> PFD at 195-96; proposed Finding of Fact No. 222.

<sup>62</sup> SWEPCO Exceptions at 44.

<sup>63</sup> PFD at 196; proposed Finding of Fact Nos. 220-23. SWEPCO admitted that it singled out Eastman because it had data using telemetry equipment. Eastman Ex. 9. But when asked whether SWEPCO was in the process of obtaining similar data from other retail BTMG customers, SWEPCO admitted that it was not. Eastman Ex. 3; Tr: 1169 (Ross), 1168 (Ross). Eastman contended before the ALJs that SWEPCO could have and should have waited to report Eastman's phantom load until such time as it had a process and data to treat other retail BTMG customers similarly. Eastman Initial Brief at 20. It also should be noted that since SWEPCO failed to offer any BTMG load data for any other retail customer in Texas, Louisiana, or Arkansas, Eastman's BTMG load size relative to other SWEPCO's retail BTMG customers is an assumption only.

<sup>64</sup> SWEPCO Exceptions at 44.

where it is undisputed that Eastman rarely takes service from SWEPCO and it is unlikely to take such service during a system peak.<sup>65</sup>

- SWEPCO's claim: Not all of Eastman's load is behind the retail meter.<sup>66</sup>  
PFD's treatment of the claim: **Rejected**. Eastman demonstrated that its facilities' configuration where Eastman uses a SWEPCO-owned transmission line to serve all of its load existed before it purchased the BTMG system from a predecessor of AEP, and Eastman's use of the line is incidental. Eastman explained that only a portion of its retail BTMG traverses this line.<sup>67</sup> The use of the line does not appear to be imposing new costs on SWEPCO's system.<sup>68</sup>
- SWEPCO's claim: SWEPCO did not include other retail BTMG loads because they are not synchronized with the SPP system.<sup>69</sup>  
PFD's treatment of the claim: **Rejected**. SWEPCO's distinction as to whether the load is synchronous versus asynchronous does not appear to be significant since any load that SWEPCO is capable of serving must be synchronous.<sup>70</sup>

The PFD considered and rejected each of SWEPCO's repackaged attempts to justify why SWEPCO singled out Eastman and attempted to use a phantom load for Eastman BTMG. The Commission should accept the PFD and likewise reject SWEPCO's Exceptions.

**2. Application of "cost causation" principles does not govern or result in inclusion of \$5.7 million in increased allocated transmission costs to be paid by Texas ratepayers.**

SWEPCO claims that "cost causation" principles govern the review of its significant change in its jurisdictional allocation cost study.<sup>71</sup> SWEPCO further suggests that it is treating its retail jurisdictions in a fair and consistent manner.<sup>72</sup> Both claims are contrary to the record evidence and consequently were rejected in the PFD.

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<sup>65</sup> PFD at 196; proposed Finding of Fact No. 214.

<sup>66</sup> SWEPCO Exceptions at 44.

<sup>67</sup> Eastman Ex. 2 at 25.

<sup>68</sup> PFD at 196; proposed Finding of Fact No. 205.

<sup>69</sup> SWEPCO Exceptions at 44.

<sup>70</sup> PFD at 186-87, 196.

<sup>71</sup> SWEPCO Exceptions at 42-43.

<sup>72</sup> *Id.* at 43.

The PFD rejects SWEPCO's assertion that SWEPCO treated Texas consistently with other state jurisdictions when including Eastman's phantom BTMG load in its jurisdictional cost allocation study. The PFD states:

... the ALJs find that SWEPCO's decision to revise its jurisdictional allocation to add the retail BTMG load of one customer (Eastman) in one jurisdiction (Texas) is unreasonable and results in unreasonably discriminatory rates for Texas customers. SWEPCO has retail customers with BTMG in all three of its jurisdictions. As a result, adding retail BTMG load solely to Texas likely results in the Texas jurisdiction receiving a higher allocation of SWEPCO's transmission costs than if the Company had treated each jurisdiction consistently. This inconsistency is also not attributable to SPP requiring Network Customers to report retail BTMG load, as [SWEPCO witness] Mr. Locke testified that *all* retail BTMG load should be reported.<sup>73</sup>

In its Exceptions, SWEPCO woefully attempts to side-step the PFD's analysis by attempting to label the issue as one of "cost causation". But, like SWEPCO's position before the ALJs, SWEPCO's Exceptions are contrary to the facts or miss the point of the PFD's analysis.

First, SWEPCO claims that its cost allocation study is consistent with its study in the prior rate case, Docket No. 46449.<sup>74</sup> This statement simply is not true, and even if it is, consistency with a past proceeding is not dispositive. In Docket No. 46449, SWEPCO allocated NITS charges to all jurisdictions and, in those allocations, all of the jurisdictions were treated consistently—no jurisdiction bore any allocated load or transmission costs related to retail BTMG because SWEPCO used the net-load reporting approach. That is not what SWEPCO did in its jurisdictional cost allocation study in this case. The PFD specifically rejected SWEPCO's claim of consistency with its approach in Docket No. 46449, finding that SWEPCO's inclusion of "retail BTMG load in the jurisdictional allocation of transmission costs is not consistent with how SWEPCO allocated these costs in the past."<sup>75</sup> SWEPCO did not include all retail BTMG (phantom or actual) in its jurisdictional allocation study—it only included a phantom and artificial load of BTMG for one customer (Eastman) and in one state (Texas).<sup>76</sup> Because it singled out a single customer in one state, even though it knew that it had other retail customers

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<sup>73</sup> PFD at 195-96 (emphasis in original).

<sup>74</sup> SWEPCO Exceptions at 45.

<sup>75</sup> PFD at 195.

<sup>76</sup> PFD at 195; proposed Finding of Fact Nos. 215, 222.

(large and small) in all three jurisdictions, SWEPCO's approach in this case was remarkably different from the manner that it approached jurisdictional cost allocation in Docket No. 46449.

Second, as support of its "cost causation" theory, SWEPCO relies on a single statement from its witness, John Aaron, who claimed that cost causation principles would be "violated" by removal of the phantom load attributable to Eastman BTMG from the Texas load ratio.<sup>77</sup> Eastman submits that the PFD did not find Mr. Aaron's statement credible as it found that SWEPCO did not meet its burden of proof to justify changing its approach in its jurisdictional cost study:

. . . [SWEPCO's] Application provided little indication that it was making this change. SWEPCO also did not explain why adjusting its jurisdictional allocation in this manner was the appropriate way to address the increase in SPP costs related to reporting Eastman's BTMG load to SPP. As TIEC points out, by changing the jurisdictional allocator for *all* transmission costs, Texas would receive a higher share not only of SWEPCO's SPP costs, but also its transmission costs that are not related to SPP. However, SWEPCO also did not explain why the change in how it reports retail BTMG load to SPP would impact the allocation of its non-SPP transmission costs.<sup>78</sup>

Thus, while Mr. Aaron may have made that single sentence statement in support of SWEPCO's theory, his conclusion was rejected in the PFD based on the evidence in the record, and it did not rise to the level of credible evidence.

Third, SWEPCO claims that the removal of the Eastman retail load from the Texas jurisdiction will result in trapped costs that Arkansas and Louisiana jurisdictions will not be allowed to pay.<sup>79</sup> SWEPCO made the same assertion earlier in the case and, notwithstanding the claim, the PFD rejects it. This Commission should not be swayed because there are consequences when a utility does not meet its burden of proof under PURA. SWEPCO put itself in this situation. It had the opportunity throughout the case to provide credible justifications for its inconsistent treatment of retail BTMG phantom loads in its jurisdictional allocation cost study, but it did not—just as the PFD found. SWEPCO failed.

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<sup>77</sup> SWEPCO Exceptions at 45-46.

<sup>78</sup> PFD at 195 (emphasis in original).

<sup>79</sup> SWEPCO Exceptions at 46.

SWEPCO now claims that it will have trapped costs because Arkansas and Louisiana will likely not allow its ratepayers to shoulder such costs based on phantom loads.<sup>80</sup> SWEPCO's rate cases in Arkansas and Louisiana will not have the retail BTMG phantom load issue because SWEPCO voluntarily chose not to report any phantom load related to retail customers' BTMG in its reports to SPP or in its jurisdictional cost study in those states. Additionally, if any costs are "trapped," it is the result of SWEPCO's unreasonable and discriminatory use of a phantom load for Eastman's BTMG in this case. The consequence of SWEPCO's unreasonable and discriminatory decisions rests on SWEPCO, not the Commission. SWEPCO's claim that it has nowhere to turn to recoup some of the disallowed revenue requirement is not a reason to ignore the factually and legally based findings in the PFD.

For all of these reasons, the Commission should adopt the PFD's rejection of SWEPCO's inclusion of Eastman's retail BTMG load (146 MW)<sup>81</sup> and the related proposed Finding of Fact Nos. 192-216, 218-223, 225-226, 239-243 and Conclusion of Law Nos. 34-37.

## **IX. FUNCTIONALIZATION AND COST ALLOCATION**

### **A. Class Allocation**

#### **1. TIEC's Class Allocation Issues**

#### **THE PFD SHOULD BE ADOPTED WITH RESPECT TO ITS REJECTION OF SWEPCO'S CLASS ALLOCATION OF TRANSMISSION COSTS ASSOCIATED WITH RETAIL BTMG.**<sup>82</sup>

SWEPCO did not specifically except to the PFD's rejection of SWEPCO's inclusion of increased costs allocated to Texas due to the inclusion of a phantom load for Eastman's BTMG. The PFD specifically analyzed SWEPCO's class cost allocation study and found that SWEPCO failed to meet its burden of proof that the allocation to the LLP-T class was "reasonable, necessary and non-discriminatory."<sup>83</sup> SWEPCO's failure to except to this recommendation is very telling; it has no response (based on evidence in the record) to the PFD's analysis. The PFD recognized that SWEPCO made an adjustment to the class allocation similar to the one made in

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<sup>80</sup> *Id.*

<sup>81</sup> PFD at 167-191, 271.

<sup>82</sup> PFD at 279-280; proposed Finding of Fact Nos. 224-25, 255.

<sup>83</sup> PFD at 280.

its jurisdictional allocation cost study by imputing a phantom load for Eastman's BTMG to the LLP-T class. The adjustment increased the LLP-T's class's purported peak demand from 97.7 MW to 246.7 MW.<sup>84</sup> As the PFD noted, the consequence of imputing this load to the LLP-T class is a "massive cost shift"—to the tune of increasing the LLP-T class's share of transmission costs by nearly \$8 million<sup>85</sup> while the remaining classes saw a decrease of \$2.3 million, which is directly attributable to SWEPCO's inclusion of a phantom load for Eastman's BTMG.<sup>86</sup>

The PFD correctly and justifiably rejected SWEPCO's corresponding change to the class allocation because "SWEPCO did not demonstrate that the allocation was reasonable, necessary, and non-discriminatory."<sup>87</sup> It recommended the removal of Eastman's BTMG load that SWEPCO had added to the LLP-T class for allocation purposes. The PFD and related findings of fact should be adopted.

## **X. REVENUE DISTRIBUTION AND RATE DESIGN**

### **C. Transmission Rate for Retail BTMG**

#### **THE PFD'S REJECTION OF SWEPCO'S PROPOSED SSGL RATE SHOULD BE ADOPTED.<sup>88</sup>**

SWEPCO did not except to the PFD's rejection of SWEPCO's proposed new SSGL rate designed to recoup a large portion of the allocated costs to Texas jurisdiction and the LLP-T class. SWEPCO's failure to except to the PFD's explicit analysis and findings gives the Commission the ability to adopt the PFD and related proposed finding of fact as the PFD applies Section 36.003(d) correctly.

It is important, however, for the Commission to understand how SWEPCO failed to meet its burden of proof that the SSGL rate was reasonable and non-discriminatory. In its direct testimony, SWEPCO barely described its new rate designed to recoup costs purportedly attributable to retail BTMG. Other than mentioning how the rate was calculated, SWEPCO did

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<sup>84</sup> PFD at 279 and fn. 1451, *citing* SWEPCO Ex. 54 (Arron Reb.), Exhibit JOA-1R.

<sup>85</sup> *Id.* at 280 and fn. 1452, *citing* TIEC Ex. 74, SWEPCO's response to TIEC RFI 11-1, at Bates 002; Tr. 1216.

<sup>86</sup> *Id.* and fn. 1453, *citing* TIEC Ex. 74, SWEPCO's response to TIEC RFI 11-1, at Bates 002.

<sup>87</sup> PFD at 280.

<sup>88</sup> PFD at 311; proposed Finding of Fact No. 292.

not provide any explanation for the rate or even explicitly name it as the SSGL rate.<sup>89</sup> Instead, in its Rate Filing Package, Schedule Q, Section 8.8, the new rate was defined to apply to any customer with BTMG that is synchronized with SWEPCO's transmission system and whose load is reported in SWEPCO's load ratio share allocation from SPP.<sup>90</sup> The \$2.20/kW rate would be applied to contract demand as defined in the customer's Maintenance and Standby Agreement.<sup>91</sup>

SWEPCO's initial proposed SSGL suffered from two fatal flaws. First, by definition, the *only* customer that would pay this monthly rate was Eastman and SWEPCO admitted that at the hearing.<sup>92</sup> The rate was discriminatory on its face and, if adopted, would have resulted in Eastman paying SWEPCO an additional \$3.96 million annually, even though Eastman's usage of the SWEPCO system had not changed.<sup>93</sup> Second, the rate was applied to negotiated contract demand billing determinants that have absolutely no bearing or relationship with Eastman's BTMG load, much less Eastman's peak retail load. Again, SWEPCO admitted that those negotiated billing determinants were unrelated to the proposed rate.<sup>94</sup>

To make matters worse, in rebuttal, after facing fierce and well-founded criticism of the proposed SSGL rate, SWEPCO weakly attempted to deflect Eastman's and TIEC's criticisms with a revised proposal. SWEPCO proposed a separate rate schedule with a "revised" SSGL without a definition of the rate, to whom it would apply, or, what billing determinants would be used—instead it simply proposed that when SWEPCO reported a customer BTMG load to SPP, it would apply the new rate "to any customers the Commission deems appropriate."<sup>95</sup> But on cross-examination, SWEPCO witness Jackson admitted that the rebuttal proposal was rife with uncertainties.<sup>96</sup> Importantly, as the PFD finds, even the revised SSGL would initially apply

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<sup>89</sup> SWEPCO Ex. 32 (Jackson Direct) at 23.

<sup>90</sup> SWEPCO Ex. 1, Sch. Q-8.8 at 103.

<sup>91</sup> *Id.*

<sup>92</sup> Tr. 1263-1264 (Ross).

<sup>93</sup> Eastman Ex. 1 (Al-Jabir) at 4.

<sup>94</sup> Tr. 1513 (Jackson).

<sup>95</sup> SWEPCO Ex. 52 at 6; Tr. 1514-1515 (Jackson).

<sup>96</sup> SWEPCO Tr. 1511-1512 (SWEPCO did not propose a new definition of what other retail BTMG customers would pay the SSGL rate); Tr. 1515-1516 and 1518-1519 (other retail BTMGs did not have contracts with SWEPCO, therefore, SWEPCO would have to investigate how to determine "contract demand" billing



“solely to Eastman.”<sup>97</sup> Understandably and for good reason, the PFD appropriately and correctly rejected SWEPCO’s proposed SSGL rate.<sup>98</sup> Eastman urges the Commission to adopt the PFD rejecting SWEPCO’s proposed SSGL rate.

#### **XIV. CONCLUSION**

Eastman respectfully requests that the Commission deny SWEPCO’s Exceptions related to its unreasonable and discriminatory inclusion of phantom load for Eastman BTMG in its jurisdictional allocation study that artificially, unreasonably, and discriminatorily increases the Company’s revenue requirement to establish retail rates in Texas. To that end, Eastman respectfully requests that the Commission adopt the PFD and related Findings of Fact and Conclusions of Law on this issue. Eastman further respectfully requests that the Commission adopt the PFD’s rejection of SWEPCO’s inclusion of the phantom load of Eastman’s BTMG in its class allocation cost study, which artificially increases all costs (both transmission and non-transmission) to the LLP-T class and the related Findings of Fact. Finally, Eastman respectfully requests that the Commission adopt the PFD and related Finding of Fact rejecting SWEPCO’s proposed SSGL rate (regardless of which version) because the proposed rate is discriminatory.

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determinants); Tr. 1515 and 1518-1519 (Jackson)(SWEPCO did not have a time frame by which it could identify customers to which this rate would apply or how it would determine the appropriate billing determinants.)

<sup>97</sup> PFD at 311.

<sup>98</sup> *Id.*; proposed Finding of Fact No. 292.

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served by electronic mail, on all parties of record in this proceeding on October 28, 2021, in accordance with the Orders Suspending Rules, issued in Project No. 50664.

  
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Katherine K. Mudge